

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS - EASTERN DIVISION**

IN RE:

BRADFORD EARL HERRICK, JR. A/K/A Case No. 11-20889 - JNF
BRADFORD E. HERRICK, JR., A/K/A Chapter 7
BRADFORD HERRICK,
Debtor

**MOTION OF WELLS FARGO BANK, N.A.
FOR RELIEF FROM THE AUTOMATIC STAY**

Now comes Wells Fargo Bank, N.A., formerly known as Wachovia Mortgage, FSB, f/k/a World Savings Bank, FSB (the “Lender”) and moves for relief from the automatic stay existing pursuant to 11 U.S.C. § 362 to permit the Lender and/or its successors and/or assigns to exercise its rights under its loan documents, including the power of sale contained in the mortgage dated June 20, 2007, and recorded with the Plymouth County Registry of Deeds, in Book 34717 at Page 203, and to exercise its possessory rights should the Lender and/or its successors and/or assigns become the successful purchaser at foreclosure, with respect to the real estate and improvements currently owned by Saraland Investments, and located at 70 Ash Street, West Bridgewater, Massachusetts.

In support thereof, the Lender states as follows:

1. The Lender is a lending organization with a place of business located at 4101 Wiseman Boulevard, San Antonio, TX 78251.
2. Counsel to the Lender, Partridge Snow & Hahn LLP, collects debts for mortgage lenders and any information obtained in that regard will be used for that purpose.
3. Upon information and belief, Bradford Earl Herrick, Jr., a/k/a Bradford E. Herrick, Jr., a/k/a Bradford Herrick (the “Debtor”) is a resident of West Bridgewater, MA. The

above case was commenced on November 18, 2011, by the filing of a petition for relief pursuant to Chapter 7 of Title 11 of the United States Code.

4. The Debtor was the prior owner of that certain real estate and improvements located at 70 Ash Street, West Bridgewater, Massachusetts (the "Premises").

5. On June 20, 2007, the Debtor executed a promissory note in favor of the Lender having an original principal balance of \$390,000.00 (the "Note").

6. On June 20, 2007, as security for payment of the Note, the Debtor granted a mortgage (the "Mortgage") to the Lender on the Premises. The Mortgage was recorded with the Plymouth County Registry of Deeds, in Book 34717 at Page 203. The Lender has no other collateral for the Note. A true and accurate copy of the Mortgage is attached hereto as Exhibit A.

7. The Note and the Mortgage are now and continually have been in default since May 1, 2009, due to the failure of the Debtor to make payments thereunder.

8. The total amount in arrears on this loan as of December 2, 2011, is \$77,265.73 which is broken down as follows:

3 payments of \$2,060.05 each (5/1/09 - 7/1/09)	\$ 6,180.15
12 payments of \$2,175.48 each (8/1/09 - 7/1/10)	\$26,105.76
12 payments of \$2,299.57 each (8/1/10 - 7/1/11)	\$27,594.84
2 payments of \$2,432.97 each (8/1/11 - 9/1/11)	\$ 4,865.94
3 payments of \$2,508.85 each (10/1/11 - 12/1/11)	\$ 7,526.55
Late charges	\$ 1,379.43
FC legal fees and costs	\$ 2,887.06
Legal fees and costs for this motion for relief	\$ <u>726.00</u>
Total:	\$77,265.73

9. As of November 21, 2011, there was due and owing pursuant to the Note, together with interest, expenses and reasonable attorneys' fees, the amount of \$529,566.51.

10. The amount of the current monthly payment owed to the Lender is \$2,508.85.

11. In addition to the Mortgage, there are additional liens and encumbrances on the Premises as set forth below:

--None

12. The total of all liens and encumbrances on the Premises is approximately \$529,566.51.

13. The Premises is valued as follows:

(1) Fair Market Value (Debtor Schedules) \$350,000.00

(2) Liquidation Value*: \$326,904.00

*Liquidation Value arrived at by taking Fair Market Value of \$350,000.00, less usual and customary 6% broker's commission of \$21,000.00, less documentary deed stamps calculated at \$4.56 per thousand (\$1,596.00), less closing costs of \$500.00 for a Liquidation Value of \$326,904.00.

14. There is no other collateral securing the Note.

15. The Debtor has indicated in his Statement of Intention that he intends to retain the Premises.

16. The Lender is entitled to relief from the automatic stay pursuant to 11 U.S.C. § 362 (d)(1) for cause, to wit, the lack of adequate protection, for the failure of the Debtor to make payments to the Lender pursuant to the terms of the Note and the Mortgage, and pursuant to 11 U.S.C. § 362 (d)(2)(A) because there is no equity in the Premises for the Debtor's

estate, and the Premises are not necessary to an effective reorganization, as this is a Chapter 7 liquidation.

17. The Lender will be irreparably harmed unless it is granted relief from the automatic stay.

WHEREFORE, the Lender prays that the automatic stay existing pursuant to 11 U.S.C. § 362 be modified to permit the Lender and/or its successors and/or assigns to exercise its rights pursuant to the Note and the Mortgage, including the power of sale with respect to the Premises; and that the Lender and/or its successors and/or assigns have such other and further relief as is just, including relief to exercise its summary process rights against the Premises should the Lender and/or its successors and/or assigns be the successful bidder at foreclosure.

WELLS FARGO BANK, N.A.

By its Attorneys,

PART RIDGE SNOW & HAHN LLP

/s/ Ann Marie Maccarone
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Dated: December 6, 2011

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of December, 2011, I electronically filed a Motion for Relief from the Automatic Stay with the Clerk of the Bankruptcy Court using the CM/ECF System. The following participants have received notice electronically:

John Fitzgerald, Esquire, U.S. Trustee
Debora Casey, Esquire, Trustee
Neil J. Berman, Esquire, Counsel for Debtor

and I hereby certify that a copy of the Motion for Relief from the Automatic Stay was served by regular, first class mail, to the following interested parties as set forth below:

Bradford Earl Herrick, Jr. a/k/a Bradford E.
Herrick, Jr., a/k/a Bradford Herrick
70 Ash Street
West Bridgewater, MA 02379

Town of West Bridgewater
Tax Collector
Municipal Building
65 N. Main Street
West Bridgewater, MA 02379

Saraland Investment Corp.
2510 E. Sunset Road
Las Vegas, NV 89120

IRS Insolvency
Attn: ADR
P.O. Box 9112, Stop 20800
John F. Kennedy Building
25 New Sudbury Street
Boston, MA 02203

/s/ Ann Marie Maccarone

Ann Marie Maccarone

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